

(2) *Liability of financial institutions and others.* If any certified, treasurer's, or cashier's check, or other guaranteed draft, or money order, is not duly paid, the United States shall have a lien for the amount of such check or draft upon all assets of the financial institution on which drawn, or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such financial institution or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution. In addition, the Government has the right to exact payment from the person required to make the payment.

(c) *Payment in nonconvertible foreign currency.* For rules relating to payment of income taxes and taxes under the Federal Insurance Contributions Act in nonconvertible foreign currency, see section 6316 and the regulations thereunder.

(d) *Financial institution.* For purposes of section 6311 and this section, *financial institution* includes but is not limited to—

(1) A bank or trust company (as defined in section 581);

(2) A domestic building and loan association (as defined in section 7701(a)(19));

(3) A mutual savings bank (including but not limited to a mutual savings bank as defined in section 591(b));

(4) A credit union (including both state and federal credit unions, and including but not limited to a credit union as defined in section 501(c)(14)); and

(5) A regulated investment company (as defined in section 851(a)).

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7188, 37 FR 12795, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976; T.D. 8595, 60 FR 20899, Apr. 28, 1995]

§ 301.6311-2T Payment by credit card and debit card (temporary).

(a) *Authority to receive—(1) Payments by credit card and debit card.* Internal revenue taxes may be paid by credit card or debit card as authorized by this

section. Payment of taxes by credit card or debit card is voluntary on the part of the taxpayer. However, only credit cards or debit cards approved by the Secretary may be used for this purpose, only the types of tax liabilities specified by the Secretary may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions and procedures prescribed by the Secretary. All references in this section to “tax” also include interest, penalties and additions to tax.

(2) *Payments by electronic funds transfer other than payments by credit card and debit card.* Provisions relating to payments by electronic funds transfer other than payments by credit card and debit card are contained in section 6302 and the Treasury Regulations promulgated pursuant to section 6302.

(3) *Definitions—(i) Credit card* means any credit card as defined in section 103(k) of the Truth in Lending Act, 15 U.S.C. 1602(k), including any credit card, charge card or other credit device issued for the purpose of obtaining money, property, labor or services on credit.

(ii) *Debit card* means any accepted card or other means of access as defined in section 903(1) of the Electronic Funds Transfer Act, 15 U.S.C. 1693a(1), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor or services.

(b) *When payment is deemed made.* A payment of tax by credit card or debit card shall be deemed made when the issuer of the credit card or debit card properly authorizes the transaction, provided the payment is actually received by the Secretary in the ordinary course of business and is not returned pursuant to paragraph (d)(3) of this section.

(c) *Payment not made—(1) Continuing liability of taxpayer.* A taxpayer who tenders payment of taxes by credit card or debit card is not relieved of liability for such taxes until the payment is actually received by the Secretary and is not required to be returned pursuant to paragraph (d)(3) of this section. This continuing liability of the taxpayer is in addition to, and

not in lieu of, any liability of the issuer of the credit card or debit card or financial institution pursuant to paragraph (c)(2) of this section.

(2) *Liability of financial institutions.* If a taxpayer has tendered a payment of internal revenue taxes by credit card or debit card, and the credit card or debit card transaction has been guaranteed expressly by a financial institution, and the United States is not duly paid, the United States shall have a lien for the guaranteed amount of the transaction upon all the assets of the institution making such guarantee. The unpaid amount shall be paid out of such assets in preference to any other claims whatsoever against such guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such institution.

(d) *Resolution of errors relating to the credit card or debit card account—*(1) *In general.* Payments of taxes by credit card or debit card shall be subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act, 15 U.S.C. 1666, or section 908 of the Electronic Fund Transfer Act, 15 U.S.C. 1693f, or any similar provisions of state law, for the purpose of resolving errors relating to the credit card or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability.

(2) *Matters covered by error resolution procedures.* (i) The error resolution procedures of paragraph (d)(1) of this section apply to the following types of errors:

(A) An incorrect amount posted to the taxpayer's account as a result of a computational error, numerical transposition, or similar mistake.

(B) An amount posted to the wrong taxpayer's account.

(C) A transaction posted to the taxpayer's account without the taxpayer's authorization.

(D) Similar types of errors that would be subject to resolution under these procedures in ordinary commercial transactions.

(ii) An error described in paragraphs (d)(2)(i) (A) through (D) of this section

may only be resolved through the procedures referred to in paragraph (d)(1) of this section and cannot be a basis for any claim or defense in any administrative or court proceeding involving the Secretary.

(3) *Return of funds pursuant to error resolution procedures.* Notwithstanding section 6402 of the Internal Revenue Code, if a taxpayer is entitled to a return of funds pursuant to the error resolution procedures of paragraph (d)(1) of this section, the Secretary may, in the Secretary's sole discretion, effect such return by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or any other financial institution or person that participated in the transaction in which the error occurred.

(4) *Matters not subject to error resolution procedures.* The error resolution procedures of paragraph (d)(1) of this section do not apply to any error, question or dispute concerning the amount of tax owed by any person for any year. For example, these error resolution procedures do not apply to determine a taxpayer's entitlement to a refund of tax for any year for any reason, nor may they be used to pay a refund. All such matters shall be resolved through administrative and judicial procedures established pursuant to the Internal Revenue Code and the rules and regulations thereunder.

(5) Payments of taxes by credit card or debit card are not subject to section 170 of the Truth in Lending Act, 15 U.S.C. 1666i, or to any similar provision of state law.

(e) *Fees or charges.* The Internal Revenue Service may not impose any fee or charge on persons making payment of taxes by credit card or debit card. This section does not prohibit the imposition of fees or charges by issuers of credit cards or debit cards or by any other financial institution or person participating in the credit card or debit card transaction. The Internal Revenue Service may not receive any part of any fees that may be charged.

(f) *Authority to enter into contracts.* The Secretary may enter into contracts related to receiving payments of tax by credit card or debit card if such contracts are cost beneficial to the Government. The determination of

whether the contract is cost beneficial shall be based on an analysis appropriate for the contract at issue and at a level of detail appropriate to the size of the Government's investment or interest. The Secretary may not pay any fee or charge or provide any other monetary consideration under such contracts for such payments.

(g) *Use and disclosure of information relating to payment of taxes by credit card and debit card.* Information obtained by any person other than the taxpayer in connection with payment of taxes by a credit card or debit card shall be treated as confidential, whether such information is received from the Secretary or from any other person (including the taxpayer). No person other than the taxpayer shall use or disclose such information except as follows:

(1) Card issuers, financial institutions, or other persons participating in the credit card or debit card transaction may use or disclose such information for the purpose and in direct furtherance of servicing cardholder accounts, including the resolution of errors in accordance with paragraph (d) of this section. This authority includes the following:

(i) Processing of the credit card or debit card transaction, in all of its stages through and including the crediting of the amount charged on account of tax to the United States Treasury.

(ii) Billing the taxpayer for the amount charged or debited with respect to payment of the tax liability.

(iii) Collection of the amount charged or debited with respect to payment of the tax liability.

(iv) Returning funds to the taxpayer in accordance with paragraph (d)(3) of this section.

(2) Card issuers, financial institutions or other persons participating in the credit card or debit card transaction may use and disclose such information for the purpose and in direct furtherance of any of the following activities:

(i) Assessment of statistical risk and profitability.

(ii) Transfer of receivables or accounts or any interest therein.

(iii) Audit of account information.

(iv) Compliance with Federal, State, or local law.

(v) Cooperation in properly authorized civil, criminal, or regulatory investigations by Federal, State, or local authorities.

(3) Notwithstanding the foregoing, use or disclosure of information relating to credit card and debit card transactions for purposes related to any of the following is not authorized:

(i) Sale or exchange of such information separate from the underlying receivable or account.

(ii) Marketing for any purpose, for example, marketing tax-related products or services, or marketing any product or service that targets those who have used a credit card or debit card to pay taxes.

(iii) Furnishing such information to any credit reporting agency or credit bureau,⁵ except with respect to the aggregate amount of a cardholder's account, with the amount attributable to payment of taxes not separately identified.

(4) Use and disclosure of information other than as authorized by this paragraph (g) may result in civil liability under section 7431(h) of the Internal Revenue Code.

(h) *Effective date.* This section applies to payments of taxes made on and after January 1, 1999, and through December 14, 2001.

[T.D. 8793, 63 FR 68996, Dec. 15, 1998; T.D. 8793, 64 FR 36569, July 7, 1999]

§ 301.6312-1 Treasury certificates of indebtedness, Treasury notes, and Treasury bills acceptable in payment of internal revenue taxes or stamps.

(a) Treasury certificates of indebtedness, Treasury notes, or Treasury bills of any series (not including interim receipts issued by Federal reserve banks in lieu of definitive certificates, notes, or bills) may be tendered at or before maturity in payment of internal revenue taxes due on the date (or in payment for stamps purchased on the date), on which the certificates, notes, or bills mature, or in payment of internal revenue taxes due on a specified prior date, but only if such certificates, notes, or bills, according to the express terms of their issue, are made acceptable in payment of such taxes or for the purchase of stamps. If the taxes for